

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF

Federico G. JAEKEL

Appln. No.: 09/931,170

Filed: August 17, 2001

Title: EXTERIOR VACUUM MOLDED BODY PANELS



Group Art Unit: 3612

Examiner: Unknown

March 27, 2002

* * * * *

PETITION UNDER 37 C.F.R. § 1.47(b) for
FILING OF APPLICATION WHEN SOLE INVENTOR
REFUSES TO EXECUTE DECLARATION

Hon. Commissioner of Patents
Washington, D.C. 20231

RECEIVED
MAR 29 2002
OFFICE OF PETITIONS

Sir:

In response to the October 1, 2001, Notice to File Missing Parts of Application in the above-identified application, and due to the refusal of the above-identified inventor to execute the subject application for patent, and pursuant to 37 C.F.R. § 1.47(b) and 35 U.S.C. 118, the assignee of the above-identified patent application, Magna International Inc., hereby petitions that it may make the subject application for patent on behalf of and as agent for the inventor to preserve the rights of Magna International, Inc. and prevent irreparable damage thereto.

03/28/2002 SSITHIB1 00000044 09931170

06 FC:122

1. ^{130.00 DE}
Declaration and Power of Attorney for Subject Application

A Declaration and Power of Attorney for the subject application executed by Jeffrey T. Imai, who has been authorized to execute the Declaration on behalf of Magna International, Inc., is submitted herewith. The Declaration and Power of Attorney establishes that Magna International, Inc., the 37 C.F.R. 1.47(b) applicant, is related to the inventor as the assignee of the subject invention.

2. Assignment of Application to Magna International Inc.

The above-identified inventor has assigned the subject invention and subject application to Magna International, Inc. as evidenced by the attached Statement Under § 3.73(b) attached hereto as Exhibit A. The assignment of the invention to Magna International Inc. is evidenced by an executed assignment document assigning the rights in corresponding U.S. provisional application serial no. 60/226,094 for the U.S. provisional application to Cosma International Inc. The executed assignment was recorded against U.S. provisional application serial no. 60/226,094 with the U.S. Patent and Trademark Office at Reel 011008 Frame 0270. The Notice of Recordation of Assignment and the executed assignment is attached hereto as Exhibit B. The subject nonprovisional application claims priority to U.S. provisional application serial no. 60/226,094 and is substantially identical thereto. The Articles of Amalgamation evidencing the merger of Cosma International, Inc. and Magna International, Inc. are attached to the Statement Under § 3.73(b).

The executed assignment recorded against U.S. provisional application serial no. 60/226,094, and Articles of Amalgamation evidencing the subsequent merger of Cosma International Inc. and Magna International, Inc to Magna International, Inc. are submitted herewith, respectively, for recordation with the Assignment Division of the U.S. Patent and Trademark Office.

Thus, Magna International, Inc. is the assignee of the full interest of the subject invention and subject application.

3. Statement of Facts Regarding Refusal of Inventor to Execute Declaration

As evidenced by the Declaration of Jeffery T. Imai, attached hereto as Exhibit C, the above-identified inventor was provided with a copy of the subject application and refused to execute a Declaration therefor. The inventor is currently involved in a litigation with Magna International, Inc. Exhibit 1 of the Imai Declaration is a letter from the inventor's counsel, which states that the letter is "constituting Mr. Jaekel's refusal to execute the Declaration and Power of Attorney For Patent Application" for the subject application.

Thus, the Imai Declaration and, in particular, the letter from the inventor's counsel establishes that the inventor refuses to execute the application papers.

4. Proof of Irreparable Damage

A Notice of Missing Parts of Application in the subject application was mailed on October 1, 2001. This Petition responds to the outstanding Notice to File Missing Parts of Application. If this Petition is not granted, the period to respond to the outstanding Notice to File Missing Parts of Application will lapse and the subject application will go abandoned. The subject application was filed during the pendency of the corresponding U.S. provisional application serial no. 60/226,094, which is now abandoned. The filing date of the subject application is necessary not only for the purpose of establishing the filing date of the subject application but to properly claim priority to the now abandoned corresponding provisional application. Accordingly, this Petition is necessary to preserve the rights of the assignee, Magna International, Inc. and to prevent irreparable damage thereto.

5. Fee Set Forth in § 1.17(h)

The \$130 fee set forth in 35 C.F.R. § 1.17(h) is enclosed herewith. In the event this fee is insufficient or missing, the Commissioner is authorized to charge said fee to Deposit Account No. 03-3975, our Order No. 20826/280447.

6. Inventor's Last Known Address

The last known address of the sole inventor of the subject application is as follows:

Federico G. Jaekel
17 Deer Run Court
Richmond Hill, Ontario, Canada
L4E 3M1

The inventor may also be reached at the address of his counsel. The last known address of the last known counsel of the inventor is as follows:

Stuart M Ducoffe, Esq.
Woolgar VanWiechen Ketcheson Ducoffe LLP
70 Esplanade, Suite 401
Toronto, Ontario, Canada
M5E 1R2

* * *

In view of the foregoing, granting of this Petition, completion of the subject application, issuance of an Official Filing Receipt, and examination of the subject application are respectfully requested.

Respectfully submitted,
Pillsbury Winthrop LLP

By: 

Thomas P. Hilliard
Reg. No.: 40,330
Tel. No.: (202) 775-9868
Fax No.: (202) 833-8491

1133 Connecticut Avenue, NW
Washington, DC 20036
(202) 775-9800